IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2941 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PANDYA SHANKERBHAI KESHRABHAI

Versus

DIST PANCHAYAT

Appearance:

1. Special Civil Application No. 2941 of 1991

MR PV HATHI for Petitioner No. 1-9

MR HS MUNSHAW for Respondent No. 1-2

MR HL JANI, APP for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 24/03/2004

ORAL JUDGEMENT

This petition was pressed for the petitioner no.1, 4 and 5 with the grievance that despite being on

the select list for appointment since 1979, they were not appointed as Talati cum Mantri even as admittedly, 192 posts of Talati cum Mantri were vacant. Thus, burden of the arguments of Mr.Hathi, Learned Advocate for the petitioners was that the respondents were not operating the existing select list made in the year 1979 even as in another legal proceedings being Special Civil Application No. 2944 of 1986 and other cognate matters, this Court had directed by order dated 14.10.1987 that the select list should be operated till fresh list was prepared and if there were vacancies, the appointment should be made from the list in accordance with the rules.

2. On the basis of the affidavit in reply filed on behalf of the respondent no.1, it was submitted that the select list in question was operated and in all 360 posts were filled up from the select list, the last of appointment from the list being dated 4.3.1989. Subsequently, the State Government had directed the respondent no.2 to cancel the said select list with further instructions not to operate the said list and accordingly, no appointments were made from the list after the resolution dated 12.6.1989, a copy of which is annexed to the petition. It was contended that the petitioners cannot claim any vested right merely on the basis of their names being included in the select list and, in any case, in fact, the respondents have not undertaken any recruitment procedure for appointment of General Class category candidates in the cadre of Talati cum Mantri after the last appointment dated 4.3.1989. It was also submitted that because of various administrative reasons, no recruitment process was initiated afterwards and therefore, the petitioners cannot be granted any relief after about 25 years of their selection.

3. The Learned Counsel for the petitioners relied upon the judgment of the Supreme Court in Vijaykumar Sharma & Others Vs. Chairman, School Service Commissioner and Others reported in 2001 (4) SCC 289 which is not applicable in the facts of the present case. It is well settled by a catena of judgements that mere selection for a post and being on the waiting list does not confer upon a candidate any right to be appointed. Reference may be had to the judgements of the Supreme Court in the case of Sanjoy Bhattacharjee Vs. Union of India & Others reported in AIR 1997 Supreme Court 2179 and N Mohanan Vs. State of Kerala & Others reported in AIR 1997 Supreme Court 1896.

4. In view of the above facts, the reliefs as prayed in the petition cannot be granted. Accordingly, the

petition is dismissed. Rule is discharged with no order as to costs.

(D.H.Waghela, J)

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